

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

KALOMA CARDWELL,

*Plaintiff,*

v.

DAVIS POLK & WARDELL LLP, et al.,

*Defendants.*

Case No. 19-cv-10256-GHW

**DEFENDANTS' PROPOSED  
VOIR DIRE**

**DEFENDANTS' PROPOSED VOIR DIRE**

Pursuant to the Court's Order entered July 5, 2023 (ECF No. 320), the hearing before the Court on March 3, 2023 (ECF No. 313), and Section 5.A of the Court's Individual Rules of Practice in Civil Cases, Davis Polk & Wardwell, LLP ("Davis Polk"), Thomas Reid, John Bick, and Daniel Brass (collectively, the "Defendants"), respectfully request that the Court include the following questions in its examination of prospective jurors, pursuant to Rule 47 of the Federal Rules of Civil Procedure, and to permit Defendants to supplement that inquiry, if necessary.

Defendants further reserve all rights to amend, supplement, or modify this list of proposed voir dire questions, including depending on Plaintiff's submission or the Court's pre-trial rulings. Defendants further reserve all rights to object to any of Plaintiff's proposed voir dire questions.

DATED: September 22, 2023

By /s/ Jeh C. Johnson

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## **I. BACKGROUND**

1. Does anyone have difficulty reading, hearing, or understanding the English language?
2. This trial is expected to last for two weeks before the jury is sent to deliberate. There is no time limit on the amount of time that any particular jury may deliberate. Is there any juror who cannot be here for the anticipated duration of the trial?
  - a. If yes, explain.
3. Do you have any health issue, physical condition, or other problem that would make it difficult for you to sit as a juror or to concentrate during the trial? (bad back, migraines, etc.)

## **II. PROSPECTIVE JUROR CONFLICTS AND POTENTIAL BIAS**

4. The Plaintiff in this lawsuit is Kaloma Cardwell. Does anyone here know of or is familiar with Mr. Cardwell in any way?
  - a. If yes, how do you know of Mr. Cardwell?
5. Plaintiff is represented by attorney David Jeffries of the law firm Jeffries Law. Does anyone here know of or is familiar with the firm Jeffries Law or Mr. Jeffries in any way?
  - a. If yes, how do you know of Jeffries Law/Mr. Jeffries?
6. The Defendants in this lawsuit are Davis, Polk & Wardwell, LLC, a law firm, and certain of its current and former employees—Thomas Reid, John Bick, and Daniel Brass. Does anyone here know of or is familiar with the firm Davis Polk or any of the individuals I just named?
  - a. If yes, how do you know of Davis Polk/the individual?

7. Defendants in this lawsuit are represented by attorneys Jeh Johnson, Bruce Birenboim, Susanna Buerger, and Martha Goodman of the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP. Does anyone here know of or is familiar with the firm Paul, Weiss or any of the attorneys I just listed?

a. If yes, how do you know of Paul, Weiss/the attorney?

8. I am going to read a list of names of people who may be called as witnesses in this case. Please raise your hand if you think you know anyone on this list.

a. Kaloma Cardwell; Martin Dellacona; Renee DeSantis; Alicia Fabe; Carolina Fenner; Kathleen Ferrell; Byron Rooney; Monica Holland; Jill Sterner; Nicole Katz; Jason Kyrwood; Gar Bason Jr.; Arthur Golden; Michael Davis; Lee Hochbaum; Louis Goldberg; Len Kreynin; John Butler; Francesca Campbell; Laura Turano; John Amorosi; Oliver Smith; James Rouhandeh; Neil Barr; Sharon Crane; Rocio Clausen; Sheila Adams; Larry Jacobs; Michael Flynn; Charles Duggan; Gina Caruso; Harold Birnbaum; Brian Wolfe; Thomas Reid; John Bick; Daniel Brass; Carolyn Cardwell; Stephanie Llanes; William Chudd; Maurice Blanco; Vanessa Jackson; James McClammy; Susanna Buerger; Bruce Birenboim; Sophia Hudson; Justin McCrary, Ph.D.; Phillip Mills.

b. As to any juror indicating that they know any witness:

i. Who do you know?

ii. How do you know that person?

9. Does anyone know any of the other jurors from any contact other than your meeting this morning?

a. If yes, explain.

10. This case concerns claims of retaliation brought by Kaloma Cardwell, a Black man and former attorney at Davis Polk, against Davis Polk, a large law firm, and certain of its employees. Do you have any personal knowledge of this case, or have you read or heard it discussed, or have an opinion regarding it?

a. If yes, explain.

11. Is there anything about the nature of this case that would cause any prospective juror to start into the trial with any bias or prejudice, either one way or the other?

12. Do any of you have any moral, religious, or philosophical beliefs that would prevent you from fulfilling your duties and responsibilities as a juror?

a. If yes, explain.

13. Can you accept the law as explained to you by the Court and apply it to the facts regardless of your personal beliefs about what the law is or should be?

14. A plaintiff is a person who has initiated a lawsuit. Do you have any opinions or feelings, positive or negative, for or against a plaintiff simply because he or she has brought a lawsuit?

15. A defendant is a person or a corporation against whom a lawsuit has been brought. Do you have any opinions or feelings, positive or negative, for or against defendants simply because a lawsuit has been brought against them?

16. If the law and the evidence warranted, would you be able to render a verdict in favor of a plaintiff or defendant regardless of any sympathy you may have for either party?

17. Based upon what I have told you, is there anything about this case or the nature of the claim itself that would interfere with your ability to be fair and impartial and to apply the law as instructed by the Court?

### **III. PROSPECTIVE JURORS' BACKGROUND**

18. Have you served as a juror in a criminal or a civil case or as a member of a grand jury?

a. If yes, explain. E.g., in what type of case?

b. Have you ever served as the foreperson?

19. Have you ever testified before in any court proceeding? (not a deposition.)

20. Are you employed?

a. If yes, where do you work? How long have you worked there?

b. If no, what is the nature of your unemployment? How long have you been unemployed?

21. In your current occupation, do you have any responsibilities for evaluating the performance of other employees?

a. What are those responsibilities?

b. Do you play any role in making decisions regarding promotions or terminations?

22. I'm going to list several areas, and I want you to please raise your hand if you have any type of education, experience, training, or other specialized knowledge in any of these areas:

a. Workplace discrimination or employee rights;

b. Diversity, equity, and inclusion;

c. Union membership or leadership;

- d. Government work;
- e. Teaching/education;
- f. Workplace education or training; and
- g. Psychology, social work, or mental health counseling.
- h. If yes to any of these areas, explain.

23. Have you ever served in the military?

24. Do you have opinions or feelings, positive or negative, about the legal profession?

a. If yes, explain. E.g., are there any specific experiences you have had or know about that have led to those feelings?

25. Does anyone here have negative views about large law firms?

26. Does anyone here start out believing that large law firms would retaliate against employees who allege that the law firm has discriminated against them?

27. Do you or any close family member or friend of yours work in the legal system such as a judge, lawyer, clerk, probation officer, paralegal, etc.?

a. If yes, explain. E.g., who is the person? What type of legal position do they hold? To the extent that you know, does this person work mostly on the plaintiff's or defendant's side? Does this person discuss their legal experiences with you?

28. Have you, a close friend, or a relative, ever been a party in a lawsuit?

a. If yes, explain.

29. Have you ever been terminated from a job?

a. If yes, explain. E.g., did you feel that termination was unfair?

30. Have you ever felt mistreated by a manager?
  - a. If yes, explain.
31. Have you ever sued a current or former employer?
  - a. If yes, explain.
32. Has any member of your family or a close friend ever sued a current or former employer?
  - a. If yes, explain.
33. Have you ever made a complaint of discrimination, hostile work environment, or retaliation to a former or current employer, or to a federal, state or local agency such as the Equal Employment Opportunity Commission, the New York State Human Rights Commission, or the New York City Human Rights Commission?
  - a. If yes, explain.
34. To your knowledge, has any member of your family or a close friend ever made a complaint of discrimination, hostile work environment, or retaliation to a former or current employer, or to a federal, state, or local agency such as the Equal Employment Opportunity Commission, the New York State Human Rights Commission, or the New York City Human Rights Commission?
  - a. If yes, explain.
35. Have you ever been the victim of discrimination, racism, or unfair treatment at work?
36. Has someone close to you ever been the victim of discrimination, racism, or unfair treatment at work?
37. Have you ever observed discrimination at your work place?



a. If yes, explain.

38. Have you, or has anyone close to you, ever participated in any kind of a proceeding to determine whether any workplace discrimination, hostile work environment, or retaliation occurred?

39. Is there anything that would cause anyone here to side with the employee in an employment dispute, before hearing any evidence in the case?

40. Do you believe an employer should be able to terminate an underperforming employee?

a. If no, explain.